

AMENDED IN ASSEMBLY MAY 15, 2007

AMENDED IN ASSEMBLY MAY 3, 2007

AMENDED IN ASSEMBLY APRIL 23, 2007

AMENDED IN ASSEMBLY MARCH 29, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

## ASSEMBLY BILL

**No. 1574**

**Introduced by Assembly Member Houston**

*(Coauthor: Senator Dutton)*

February 23, 2007

---

An act to add Sections 1098 and 1102.6e to the Civil Code, relating to real estate.

### LEGISLATIVE COUNSEL'S DIGEST

AB 1574, as amended, Houston. Real ~~estate~~: *property*: *transfer* fees.

Existing law permits various fees to be included in the price of a residential real estate transfer. Existing law requires the disclosure of specified attributes of residential real property prior to the transfer of title, including disclosure of a continuing lien levy of special taxes, as specified.

This bill would require a ~~seller transferor~~ of property ~~upon which a residential unit is constructed that is first transferred to a buyer on or after January 1, 2008, and which is subject to a covenant, condition, or restriction imposed by the original seller~~ requiring payment of a fee at the time of conveyance, to make a specified disclosure ~~and to record this disclosure in the chain of title~~. The bill would require that the disclosure include the amount of the fee required or a description of how the fee is calculated, the entity or entities to which funds from the

fee will be paid, and the general purpose for which funds will be used. The bill would also provide that a privately imposed fee on that real property is void if it provides a direct financial benefit to the original or any subsequent seller or an entity owned, controlled, operated, or managed by, or affiliated with, the ~~seller~~ *transferor*, in whole or in part; ~~unless. The bill would except from this prohibition transfer fees that meet specified requirements, including that the beneficiary of the fee is~~ *be a public agency or a nonprofit charitable organization that is not owned, controlled, operated, or managed by, or affiliated with, the* ~~seller~~ *transferor. The bill would require the fee to be for a public benefit that is defined and described, and would require the party imposing the fee to record specified information regarding the fee against title to the property prior to the first sale after the fee is imposed. The bill would require a manager or trustee of funds derived from valid transfer fees to maintain specified records and to permit these records to be reviewed by an owner of real property subject to a transfer fee from which the funds are derived.*

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     ~~SECTION 1. Section 1098 is added to the Civil Code, to read:~~  
2     ~~1098. A privately imposed fee that is first imposed on or after~~  
3     ~~January 1, 2008, and is applicable upon a transfer of real property~~  
4     ~~described in subdivision (a) of Section 1102.6e is void if it provides~~  
5     ~~a direct financial benefit to the original or any subsequent seller~~  
6     ~~or an entity owned, controlled, operated, or managed by, or~~  
7     ~~affiliated with, the seller, in whole or in part. This section does not~~  
8     ~~apply if the beneficiary of the fee is a public agency or a nonprofit~~  
9     ~~charitable organization that is not owned, controlled, operated, or~~  
10    ~~managed by, or affiliated with, the seller.~~  
11    ~~SECTION 1. Section 1098 is added to the Civil Code, to read:~~  
12    ~~1098. (a) (1) Except as provided in paragraph (2), a privately~~  
13    ~~imposed fee that is first imposed on or after January 1, 2008, that~~  
14    ~~is applicable upon transfer of real property is void if it provides~~  
15    ~~a direct financial benefit to the original or any subsequent~~  
16    ~~transferor or to an entity owned, controlled, operated, managed~~  
17    ~~by, or affiliated with a transferor, in whole or in part.~~

1     (2) A transfer fee described in paragraph (1) is not void if all  
2     of the following are true:

3     (A) The fee is for a public benefit that is defined and described,  
4     and the party imposing the fee records this information against  
5     title to the property prior to the first sale after the fee is imposed.  
6     The information recorded shall include the following:

7     (i) The amount of the fee required or a description of how the  
8     fee is calculated.

9     (ii) The entity or entities to which funds from the fee will be  
10    paid.

11    (iii) The purpose for which funds from the fee will be used.

12    (B) The beneficiary of the fee is a public agency or a nonprofit  
13    charitable organization that is not owned controlled, operated,  
14    managed by, or affiliated with the transferor, in whole or in part.

15    (b) The manager or trustee of any funds derived from valid  
16    transfer fees shall maintain records of the funds collected annually,  
17    the public agencies or nonprofit charitable organizations that  
18    receive these funds, and the purpose for which these funds are  
19    used. The manager or trustee shall permit these records to be  
20    reviewed by an owner of real property subject to a transfer fee  
21    from which the funds are derived.

22    SEC. 2. Section 1102.6e is added to the Civil Code, to read:

23    1102.6e. (a) This section applies to all transfers of real property  
24    for which both of the following apply:

25    ~~(1) The property upon which a residential unit has been~~  
26    ~~constructed is transferred to the first homebuyer on or after January~~  
27    ~~1, 2008.~~

28    ~~(2) The on and after January 1, 2008, if the property being~~  
29    ~~transferred is subject to a covenant, condition, or restriction, placed~~  
30    ~~on the property by the original seller requiring payment of a fee~~  
31    ~~at the time of conveyance of the property.~~

32    (b) (1) In addition to any other disclosure required pursuant to  
33    this article, the seller or transferor of any real property subject to  
34    this section shall provide an additional disclosure statement  
35    containing the information described in paragraph (2) and shall  
36    record this statement against title to the property.

37    (2) The disclosure statement shall include all of the following  
38    information:

39    (A) The amount of the fee required or a description of how the  
40    fee is calculated.

- 1 (B) The entity or entities to which funds from the fee will be
- 2 paid.
- 3 (C) The general purpose for which funds from the fee will be
- 4 used.